

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

DEBRA FRASER-HOWZE,	:	
ADMINISTRATRIX OF THE	:	
ESTATE OF BARRON WRIGHT	:	No. 06-CV-01460
	:	
Plaintiffs	:	
v.	:	APRIL 4, 2008
	:	
JEFFREY ASTER, ET. et. al.	:	
	:	
Defendants	:	

**PLAINTIFF'S REPLY TO DEFENDANTS' MOTION IN LIMINE**

The Plaintiff respectfully responds to the Defendants' Motion in Limine briefly by stating that she does not intend to offer Cyril Wecht to testify as to issues of proper police conduct, whether the Defendants' actions were justified or whether they reasonably believed themselves to be in danger. In fact, the Plaintiff agrees with the Defendants who at page 7 of their Memorandum of Law argue the position that testimony as to the justifiability of the officers' shooting would constitute legal conclusions which experts, no matter their expertise, are precluded from giving since this would amount to legal conclusions. We also agree that while Rule 704 permits expert testimony that "embraces an ultimate issue to be decided by the trier of fact" he would still be prohibited from rendering a legal opinion, which this testimony would amount to. Berckelely Inv. Group, Ltd. v. Colkitt, 455 F.3d 195 (3d Cir. 2006). We would for the same reasons respectfully request that the Defendants expert be held to the same standard regarding testimony that would amount to legal opinions.

We represent to the Court that Cyril Wecht is being offered as a forensic pathologist who will testify on issues related to the examination he made of evidence from the scene and his examination of the body of the deceased, including the angle and the direction of the bullets fired by the defendant and Officer Fraley.

/s/ Joseph A. Moniz

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Attorney for Plaintiff

**CERTIFICATION**

This is to certify that on this date the foregoing was mailed, postage pre-paid and electronically transmitted to opposing counsel identified below:

Randall Henzes, Esquire  
Office of Attorney General  
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Philadelphia, PA 19107

/s/ Andre C. Dasent

Date: April 4, 2008

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Andre C. Dasent, Esquire